

REMARKS

Claims 13-27 and 34-46 will be pending upon entry of the present amendment. Claim 25 is amended and claims 47 and 50-52 are cancelled. No new matter is added by this amendment.

The amendment to claim 25 is made to correct a minor error of antecedence, and does not change the scope of the claim.

Applicant thanks the Examiner for indicating the allowability of claims 13-27 and 34-46. While Applicant continues to believe that all of the claims pending prior to the present amendment are allowable over the art of record, the present amendment is made, in which claims 47 and 50-52 are cancelled, in order to advance prosecution and place the application in condition for allowance.

Applicant understands that with this amendment, all of the remaining claims are allowable. Favorable consideration and a Notice of Allowance are therefore earnestly solicited.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

With regard to the Examiner's response to Applicant's previous arguments, which begin on page 7 of the Office Action, the undersigned representative strongly objects to the Examiner's characterization of the arguments presented in the response to the previous Office Action. The Examiner employs language that is personal, offensive, vituperative, and calls into question the ethics of the undersigned.

Additionally, the Examiner makes factual statements that are not supported by the record. For example, the Examiner states that he "has quoted the relied upon sections of Shaw et al. twice, so far, and does so again, for the record ..." (Emphasis in the original); and, "[t]he Examiner explicitly states (as he has done twice already) that the reason ... the combination would have been obvious, is ..."; and "[t]he Examiner has written these words before (twice). Applicant has ignored these words (twice). Will a third attempt succeed in communicating to Applicant ..., " etc. The undersigned has carefully reviewed the file, and finds that the present Office Action is only the second action submitted by Examiner Dickey, the first being the action of August 31, 2007. Thus, the Examiner's repeated emphasis that in the present Office Action

he is repeating statements for the third time, etc., appears to be incorrect. Furthermore, Chan et al., the primary reference relied upon in the present Office Action, was first made of record in the August, 2007, Office Action. The previous Examiner relied upon a different combination of references to reject the claims, and in response to Applicant's arguments to those previous rejections, Examiner Dickey indicated that they had been considered and found persuasive, and were therefore withdrawn.

It is understood that the Examiner disagrees with the Applicant's arguments. The Examiner is under no obligation to accept the arguments presented, and should not use this as a reason to insult applicant's representative. Certainly neither the Applicant nor his representative are under any ethical obligation to agree with the Examiner's interpretation of the references, or his application of the *KSR* decision to those references (*KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740, 82 U.S.P.Q.2d 1385 (2007)). The use of such language merely in response to an argument is excessive; it does not advance the prosecution of the application, nor the integrity of the patent office.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

/Harold H. Bennett II/

Harold H. Bennett II

Registration No. 52,404

HHB:lcs

701 Fifth Avenue, Suite 5400  
Seattle, Washington 98104  
Phone: (206) 622-4900  
Fax: (206) 682-6031

1102954\_1.DOC